Tennessee Workers' Compensation Drug Formulary FAQ

Since notice of adoption, the Tennessee Bureau of Workers' Compensation has received several questions from various parties on the application of the Tennessee drug formulary rules. To assist, below are initial responses to some of those questions. Please note – this document is NOT INTENDED to replace the rules which can be found at: http://share.tn.gov/sos/rules/0800/0800-02/0800-02-25.20160228.pdf.

Important Formulary Dates

Q: What is the effective date of the drug formulary?
A: The drug formulary rules are effective as of February 28th, 2016.

Q: What are the application dates of the drug formulary?
A: The drug formulary guidelines will apply to all **new** prescriptions written after January 1, 2016. It will also apply to all **refills of prescriptions written** prior to January 1, 2016, but at a later date, depending on the specifics related to the prescribed medications.

Q: What does it mean for a particular prescription medication?
A: All drugs dispensed after August 28, 2016 (with a prescription that was written **after** January 1, 2016) will be subject to the drug formulary guidelines. Until then, there will be no change in the present system of prescribing, dispensing or review. There is a further notification period for dispensed **refills** until February 28, 2017. See below.

Q: What does this mean for older claims and/or long standing prescription medications?
A: Prescriptions that are refills (same medication, same dose, same number, same frequency and same instructions) for these older claims are subject to separate time frames. For any of these refills of a drug being used or prescribed before January 1, 2016, the drug formulary will apply to these prescriptions after February 28, 2017.

Q: Why do claims have a bifurcated application date for the drug formulary regulations?
A: To allow prescribers and injured workers a longer window in order to discuss and consider alternative options for ongoing and long term treatments.

Q: If the medication was dispensed previously, is there a time frame on the look back as to when it was dispensed previously?
A: No. The statement in the rules only talks about allowance for 12 months going forward, not how far back to look to determine if the drug should be allowed. The intent of the rules is to not cut injured workers off from medications they are already using.

Notification Period

Q: What is the period between January 1, 2016 and August 28, 2016 supposed to do?
A: This is to allow patients, pharmacists and doctors time to review and understand the formulary. During this period, there will be no denials or other changes in the way the present system works. Patients and physicians will begin to receive letters from PBMs or insurers concerning those medications that would require prior approval after August 28, 2016 (for new prescriptions) and after February 28, 2017 (for refills of old prescriptions).

Q: The formulary process seems so complicated. Why?
A: This is not any different than the processes already used by commercial insurance formularies and Tenncare. If the physician writes to allow substitution, then the process for workers' compensation prescriptions should be as seamless and smooth as for any other prescription.

Prior Approval

Q: What is the prior approval (PA) process?
A: It is the process that the insurer uses when a prescription is presented to a pharmacy to be paid under a claim for Workers' Compensation, if it is appropriate for the injury being covered. This process is sometime handled through a pharmacy benefits manager or other intermediary and is usually fairly rapid.

Medications Covered by the Drug Formulary

Q: What drugs are subject to the prior approval requirements?
A: The drug formulary utilizes the Work Loss Data Institute, Official Disability Guidelines (ODG®) Drug Appendix A as a basis, but also includes other specific medications. Please see the instructions with the formulary for further information. "N" drugs ("Needs Prior Approval) as well as compounds, topicals, and investigational or experimental drugs that have not yet been identified as a "Y" or "N" drug require prior approval. The insurers may exclude "N": drugs from the prior approval process in circumstances where the insurer has previously reviewed and approved these medications. For further instructions, go to: http://www.tn.gov/workforce/article/wc-drug-formulary.

Q: Not addressed drugs – what happens to these?
A: Only those classes of drugs that contain medications that are listed as "N" are posted with the formulary. Any classes of drugs that are not listed or are not specifically called out in the regulations should be treated similar to "Y" drugs.

Q: Are "Y" drugs subject to prior approval?
A: No. Only "N" drugs, compounds, topicals and investigational/experimental drugs require prior approval.

Q: Are refills of "N" drugs prescribed **or** dispensed (regardless of the DOI) prior to the initial formulary application date (August 28, 2016) allowed after the application date?
A: Yes, it is recommended but not required that an "N" drug that was prescribed **or** dispensed prior to August 28, 2016 that has remaining refills be treated as a "Y" drug for the remainder of the refills.

Q: Do the current TN regulations addressing repackaged medications still apply?
A: Yes. These are addressed in the Medical Fee Schedule rules.

Q: Does the drug formulary rule supersede existing rules related to utilization review (UR) for Schedule II, III and IV drugs which are utilized for pain for periods greater than 90 days?
A: No. The drug formulary rules do not change or supersede the existing statute on these review procedures. UR may occur on Schedule II, III and IV drugs prescribed for pain management longer than 90 days from the initial prescription.

Prior Approval and Utilization Review

Q: What is the difference between prior approval and utilization review (UR)?
A: Prior approval is defined in the section above. Utilization Review means the evaluation of the necessity, appropriateness, efficiency and quality of the requested medication. (Rule 0800-02-17-.03(82). This process may take more time and sometimes requires the review of another physician.

Q: Will current clinical edits and clinical tools be permitted on "Y" drugs after August 28, 2016?
A: The regulations state, "*Prescriptions for 'Y' drugs should be filled without delay if they are **approved as appropriate** for the nature of the injury being treated*." Therefore, application of clinical edits and tools that may assist in determining this requirement are permitted.

Q: Are there price caps associated with any of the meds or is there an overall price cap for TN?
A: No. Not in these rules. There are maximums established by other rules in the Medical Fee Schedule.

Q: Since "Y" drugs should be filled 'without delay' if they are approved and appropriate for the nature of the injury being treated, is UR allowed on "Y" drugs to determine if they are 'appropriate for the nature of the injury being treated'?
A: Yes. UR is permitted on "Y" drugs when it is needed to determine if it is appropriate for the condition that is covered. This provision, however, should not be used if the prescription may be covered under the "first fill" provisions listed below. It is the intent of the Bureau to avoid undue delays in the provision of "Y" drugs. UR processes on "Y" drugs may be done retrospectively only in restricted circumstances.

Q: What are those restricted circumstances when retrospective UR may deny either a "Y" or "N" drug?
A: Retrospective review is allowed only for drugs that are:

1. Not "appropriate" for the diagnosis or
2. That may not be "first line" or initial treatment or
3. A compound or topical or
4. Where no substitution is allowed.

Denial for these restricted reasons will only affect the next refill and not a medication that has been dispensed.

Q: What about UR for medical necessity?
A: UR may still occur at 90 days for Schedule II, III, IV drugs used for pain management. (See T.C.A.§50-6-102(20)). No drug may be denied for medical necessity retrospectively after it has been dispensed. If the medication is found to be not medically necessary after UR, the the patient, the physician, and the pharmacist should be notified that the next prescription will not be paid under workers' compensation, using the same procedures that are presently in effect.

Q: Can an adjuster deny a medication – including an "N" drug – based upon the medical necessity of the prescribed treatment?
A: Adjusters may not make denial decisions related to medical necessity. Under existing rules, denials based upon a question of medical necessity have to go through UR. An adjuster may approve a medication (which may be "N" drug) but cannot deny based on medical necessity. This denial may *only* be made by a physician.

First Fill Medications – Seven Days from Date of Injury (DOI)

Q: According to rules the injured worker is permitted seven days' worth of a medication for a first fill if that prescription is presented to the pharmacy within seven days from the date of injury. Is that correct?
A: Yes, that is correct. The seven-day supply of the medication ("N" or "Y" drug) is not reduced based upon the date on which the injured worker presents the prescription to the pharmacy. An injured worker is entitled to a full seven days of a first fill medication as long as the prescription is presented to the pharmacy within seven days from the DOI.

Q: Does this include "Y" and "N" drugs?
A: Yes. The rule states *"Prescriptions presented to a pharmacy from an authorized provider and appropriate for the prescribed injury . . . even if the prescribed medication is status 'N.' The employer is responsible for the payment."* Medications dispensed as part of a first fill during the first seven 7 days from the DOI are not subject to the formulary requirements and are required to be reimbursed as long as they are "appropriate" for the injury.